CRIMINAL LAW B
LAWS6003B

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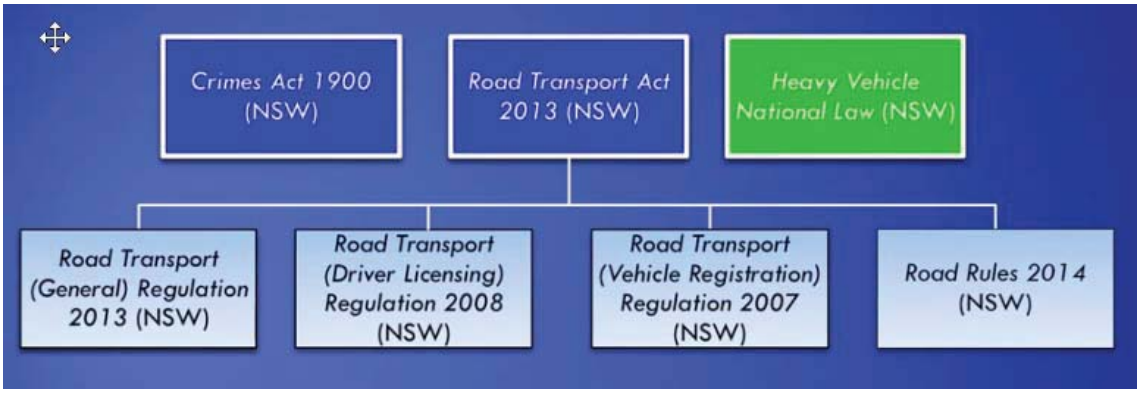
Traffic offences

Thursday, 27 July 2017
6:00 PM



Road Transport Act 2013 NSW [RTA]

- **License offences-**
  - Driving without a license s53
  - Driving while disqualified s 54
- **Vehicle registration offences**
  - Driving an Unregistered vehicle s68
- **Speeding offences [Pt 5]**
  - Unauthorised racing s115
  - Conduct associated with drag racing s116
  - Negligent driving s117
  - Furious/reckless driving dangerous to the public s 117(2)
  - Menacing driving s118
- **Dangerous Driving s 52A**
  - Causing death (1)
  - Aggravated DD causing death (2)
  - DD causing GBH (3)
  - AGG DD causing GBH (4)

Many offences do not focus on any injury but rather nature of the driving itself

- Potential penalties
  - Fine
  - Imprisonment
  - License disqualification

Negligent Driving - s 117(1)

- Most common
- Distinguished by the degree of harm caused

Elements-

1. **Driving (s4)**
2. **A motor vehicle (s4)**
3. **On a road (ss4,5**)
4. **Negligently**
   - **Different negligence to civil law**
   - **DPP v Yeo**

        - **Must be proven BRD that ACC drove MV in manner involving departure from the standard of care expected of the ordinary/prudent driver in the circumstances.**
        - **Distinction between neg/dangerous driving/manslaughter is essentially the degree of negligence**
    - **Requires complex analysis of ALL the circumstances and facts [objective AND subjective test]- s117(3)**
    - **A level of care/attention below what a reasonable person would use [Buttsworth]**

5. **Occasioning death or GBH [optional]**

- Max 10 penalty units if not occasioning death or GBH OR up to 2 years imprisonment and 50 PU if occasions death or GBH

Negligence-

- **HEIRARCHY [most serious to least]**
    - **Manslaughter** (s18/24 CA)
        - Different MR to Manslaughter- i.e. might be criminal negligence rather than intent
        - Negligence is not the same as at the civil level- i.e. it might be gross or wicked negligence
    - **Dangerous driving** (s52 CA)
    - **Negligent driving** (s117)- does not require injury to be caused but creates a risk warranting criminal conviction.

Penalty Notice Offences

- Fine and demerit points- often below stat max [ss 195, 200 RTA]
- Mobile phone use- $325 [433 in school zone] BUT state max is $2,200

Offences involving Alcohol and Drugs

Range	Novice	Special	Low	Middle	High
PCA	0.00-<0.02	0.02-<0.05	0.05-<0.08	0.08-<0.15	0.15+

- Often fine for novice-low; potential imprisonment for med-high
- **Offences**: